

**Notice of Allowability**

Application No.

10/622,896

Examiner

Sandra Wegert

Applicant(s)

GLASS, DAVID J.

Art Unit

1647

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/7/06.
2. ☒ The allowed claim(s) is/are 1 and 15 (renumbered as 1 and 2).
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some\* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

**Attachment(s)**

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08),  
Paper No./Mail Date 7/18/03
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413),  
Paper No./Mail Date \_\_\_\_\_
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_



EILEEN B. O'HARA  
PRIMARY EXAMINER

**DETAILED ACTION**

The Information Disclosure Statement, submitted 18 July 2003, has been entered into the record. Claims 2-14, 16 and 17 have been cancelled by the Applicant. Claims 1 and 15 are being examined.

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Valeta Gregg on 15 August 2006.

Please replace Claims 1 and 15 with the following amended claims:

1. (amended) An isolated nucleic acid molecule having a sequence selected from the group consisting of:

(a) SEQ ID NO:1;

(b) a nucleotide sequence that hybridizes under stringent conditions to the complement of the nucleotide sequence of (a) and which encodes the polypeptide of SEQ ID NO: 2, wherein the stringent conditions are 30% formamide in 5 x SSPE (0.18 M NaCl, 0.01 M NaPO<sub>4</sub>, PH 7.7, 0.001 M EDTA) buffer at a temperature of 42°C and remaining bound when subject to washing at 42°C with 0.2 x SSPE;

or

(c) a nucleotide sequence which, as a result of the degeneracy of the genetic code,

differs from the nucleic acid of (a) or (b) and which encodes the polypeptide of SEQ ID NO: 2.

15. (amended) An isolated nucleic acid sequence encoding a mouse MINC102 polypeptide, comprising:

(a) SEQ ID NO: 3; or

(b) a nucleotide sequence which, but for the degeneracy of the genetic code, would hybridize to the complement of SEQ ID NO: 3, and which encodes a protein that binds agents capable of activating the Akt pathway.

### REASONS FOR ALLOWANCE

The following is an examiner's statement of reasons for allowance:

The polynucleotides of the Instant Application encode a novel and nonobvious *MINC102* receptor, that interacts with the Akt/mTOR pathway, as described in the Specification and in the Inventor's paper published less than one year before filing (see, for example: Bodine, et al. 2001, Nature Cell Biology 3: 1014-1019, submitted by Applicant on 18 July 2003). The claims of the instant application are directed to the polynucleotides of SEQ ID NO: 1 and 3, as well as the polynucleotides encoding the recombinantly-produced peptide of SEQ ID NO: 2. The claims are free of the prior art as the polynucleotides have not been studied in the prior art and have been disclosed only in the provisional application from which the instant Application derives priority. The specification provides experimental evidence of utility and enablement under 35 U.S.C. 112,

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first paragraph. The claims also meet 35 U.S.C. 112- second paragraph requirements because the claims point out and distinctly claim the invention.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

#### **Advisory Information**

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sandra Wegert whose telephone number is (571) 272-0895. The examiner can normally be reached Monday - Friday from 9:00 AM to 5:00 PM (Eastern Time). If attempts to reach the examiner by telephone are unsuccessful, the Examiner's supervisor, Brenda Brumback, can be reached at (571) 272-0961.

The fax number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR

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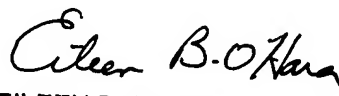
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system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

SLW

14 August 2006

  
EILEEN B. O'HARA  
PRIMARY EXAMINER